

CHRONIC ERRONEOUS REPORTING

INTRODUCTION

Mary Williams, MMS, provided the workshop participants an outline of the proposed "Chronic Erroneous Reporting Assessments" policy. The following was discussed.

- Each division participated in writing the policy.
- The definition of chronic erroneous reporting.
- History of the past assessment policy.
- Proposed policy is still under construction.

PROPOSED POLICY DISCUSSION

- Each of the goals and criteria used to formulate the categories was reviewed.
- Truly chronic incorrect reporters would be assessed.
- Impacts of chronic reporters on MMS's workload.
- MMS processes and workloads today versus past assessment policy.
- Examples of chronic erroneous reporting situations were discussed.
- Fees would probably be a flat assessment.
- Fee schedules still under construction as to reasonableness and associated costs.

CATEGORY I - REJECTED LINES DISCUSSION

- How the percentage of lines for the fees was developed.
- Group agreed to change wording of criteria to include "rejected lines reject for the same reporting error..."
- Current company error rates.
- Reasons for implementing new policy when error rates are not over 3%. Using overall error rates did not address workload impacts of chronic reporters to MMS.
- Less assessments would be issued for chronic incorrect reporters than past assessments based solely on error rates.
- Final percentage criteria will be based on MMS's development of reports.
- MMS emphasized need for assessment policy to apply fairly to all companies (an overall error rates to individual company error rates do not).
- Criteria of 3 months out of 12-month period too stringent. MMS will review timeframes.
- MMS reiterated data will be studied to determine the percentages and fees to be implemented.

CATEGORY II

MISSING REPORTS OR DATA DISCUSSION

- Currently noncompliance enforcement is used for many of these situations.
- Will address getting the required reports and/or necessary data to correct a report.

ELECTRONIC PAYMENTS AND REPORTS DISCUSSION

- Electronic reporting rule is in the final stages for issuance as proposed.
- Grace period allowed for a company to report electronically will be described in the rule.
- MMS's options of electronic reporting including those companies supplementing electronic reports with paper.

REPORTING EXCEPTIONS DISCUSSION

- Downstream processes receive incorrect adjustments, allowances, and royalty rates.
- MMS continues to see the same problems on the same properties.
- MMS looking at data to see what is reasonable for assessment criteria.
- Question from outreach group - Has MMS reviewed severity level and need of current edits. MMS has studied edits several times and made adjustments in the past, including reducing edit severity for both royalty and production reports.
- Question raised on the difference between a rejected line and exception. Difference between a rejected line and an exception is an exception results from analyzing a line of data reported (e.g., a line of data reported that rejects versus reporting a transportation allowance that exceeds the threshold (50%).
- How incorrect reporting of adjustments will be billed and what is considered chronic (current process).
- Must be an obvious "chronic" reporting problem.
- Notification processes are still being discussed/developed for each criteria.
- MMS does not want to make the notifications an administrative burden.
- Outreach group stressed that MMS must ensure the billings are correct before they are used for chronic assessments.
- MMS committed to better defining the billing policy.
- MMS explained the team has studied the notification process and will provide some type of notification before billing.
- Outreach group suggested the use of 4 times instead of 3 in a 12-month period be used as the criteria before considered to be "chronic." Must have reasonable notification.
- MMS stated the notification process may be different for different areas of RMP.
- Outreach group brought up issue of definitions of "demand" and "assessment" according to RSFA are different.
- Suggestion in group is to treat assessments the same as interest bills to give payors

- the chance to pay without notification sent to lessee.
- Outreach group suggested we not consider an assessment as appealable and treat the same as a “pre-demand, not a “demand.”

AFS/PAAS EXCEPTIONS DISCUSSION

- MMS explained the “processing months” as a factor, and the notification will be different for these types of exceptions.
- MMS explained there would be no assessment until the reporter or payor responsibility is determined.
- Suggestion by outreach group that the criteria be more specific.

VALUATION DISCUSSION

- MMS explained 2014 data is used to ensure proper royalty payments.
- Outreach group did not like the criteria as written.
- Valuation is too hard to interrupt - assessment would be overkill.
MMS explained we are not looking at valuation, assessments would be for chronic reporting of data needed to assure proper calculation of major portion, index prices, etc. (quality, volumes, allowances, etc.)
- MMS would incorporate reasonable tolerances for each exception.
- Concern expressed about number of employees it would require to determine if assessments are needed. MMS feels these processes already identify chronic situations and result in additional work.
- Outreach group - Will assessments ensure correct reporting of payments? MMS would use assessments only for continual misreporting in assuring the correct payments are made.
- Outreach group stated companies make many adjustments “in good faith.” MMS would not assess just because a large volume of adjustments were made and the prices or quality were outside of the tolerances. Assessments would only be issued if adjustments or original lines made month after month are chronically reported.
- MMS needs to ensure reporting is correct on the front-end and comes in right the first time.
- This criteria would be used to identify volumes and interpret proper value.

AUDIT DISCUSSIONS

- MMS explained the assessment policy on violations found due to audit findings would only be for “chronic” reporting problems.
- Questions from outreach group on how to define for notifications and what determines “chronic?” Examples of “chronic” misreporting: royalty rates, allowances, revenue sources.
- Outreach group suggested that if finding due to an audit is in appeal status, should not be considered for assessment. MMS agreed.
- Outreach group stated that a situation must be established as a violation by MMS and only assess if in “bad faith.”
- MMS explained assessments for audit findings would be only for truly continual

- misreporting after notification of what should be reported.
- MMS explained fees are still being studied, and there would be a flat assessment.

GENERAL DISCUSSION/FURTHER ACTIONS

- Industry and MMS decided to have an additional session to discuss further. Industry requested MMS provide some examples and data to reflect chronic situations. Industry felt RSFA intended to address “bad actors” and use error rates. MMS feels error rates are not necessarily reflective of a chronic reporter. Additionally all processes addressed in the draft assure proper royalty payments. Past Orders to Report/Noncompliance letters detailed some of the problems.
- Time line to begin assessments - March 1998. RSFA chronic section requires assessments be imposed beginning 18 months after date of enactment.
- Past assessment policy did not necessarily address a chronic reporter and used error rates primarily. The percentage of rejected lines to an overall error rate impacted many small and intermediate companies who may have had a high error rate for a single month.
- MMS needs tools to address chronic misreporting month after month. MMS explained the same mistakes are being made on the same properties every month.
- MMS explained that Congress has given MMS another tool besides the noncompliance actions to assess for truly chronic misreporting in order to make the program less costly to run. MMS needs checks and balances to prevent “chronic” and to be within the context of existing law.
- Group requested MMS look historically at lines for fees proposed.
- MMS explained the sole objective of the chronic assessment proposal is to improve the quality of reporting (to get the reports submitted correctly the first time) to assure proper royalty payments.
- MMS will review timeframes, better define criteria, and look at pre-demand vs. demand.

Follow-up session will be scheduled in December.